

**SECOND DAY**

(Continued)

(Wednesday, June 6, 1990)

**AFTER RECESS**

The Senate met at 2:00 p.m. and was called to order by President Pro Tempore McFarland.

**MESSAGE FROM THE HOUSE**

House Chamber  
June 6, 1990

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

S.B. 1, Relating to public education.

S.B. 3, Relating to aid to school districts for the acquisition, construction, renovation, or improvement of certain instructional facilities or capital assets; making an appropriation.

S.B. 11, Relating to appropriations for the biennium ending August 31, 1991.

S.B. 12, Relating to debt service on certain state bonds.

S.B. 25, Relating to allocation of funds by the Texas Water Development Board for the Sulphur River Basin Authority.

S.B. 43, Relating to conforming Chapters 361 and 363, Health and Safety Code (the Solid Waste Disposal Act and the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act).

S.B. 51, Relating to the elimination of duplicate citations in certain enacted codes.

S.J.R. 2, Proposing a constitutional amendment relating to the procedures for filling vacancies in certain state and district offices.

S.C.R. 1, Directing the Texas Water Commission in conjunction with the 1990 Joint Task Force on Waste Management Policy to define "adequate capacity."

H.C.R. 26, Recognizing the Texas Human Investment System.

H.C.R. 20, Congratulating Bill and Jewel Roberts on their 50th anniversary.

H.C.R. 21, Declaring Danevang to be the Danish Capital of Texas.

H.C.R. 22, Requesting President Bush and the U. S. Congress to reject proposals to increase federal excise taxes on beer, wine, cigarettes and gasoline.

H.C.R. 23, Congratulating Teresa Sturrock.

H.C.R. 24, Commemorating the 70th anniversary of the ratification of the 19th amendment to the U. S. Constitution.

H.C.R. 27, Recognizing the benefits of the Texas Human Investment System.

H.B. 80, Relating to the defense of indigent inmates charged with offenses committed while in the custody of the institutional division of the Texas Department of Criminal Justice; making an appropriation.

**H.J.R. 1**, Proposing a constitutional amendment relating to the compensation of the lieutenant governor and members of the legislature.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**CO-SPONSOR OF HOUSE BILL 22**

On motion of Senator Brooks and by unanimous consent, Senator Green will be shown as Co-sponsor of **H.B. 22**.

**CAPITOL PHYSICIAN**

Senator Barrientos was recognized and presented Dr. Elliot Trester of Austin as the "Doctor for the Day."

The Senate welcomed Dr. Trester and thanked him for his participation in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians.

**MESSAGE FROM THE GOVERNOR**

The following Message from the Governor was read and was filed with the Secretary of the Senate.

41-2386

**TO THE MEMBERS OF THE SENATE AND THE  
HOUSE OF REPRESENTATIVES OF THE  
SEVENTY-FIRST TEXAS LEGISLATURE IN SIXTH CALLED SESSION:**

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matters for consideration by the Seventy-first Texas Legislature in its Sixth Called Session:

Legislation relating to authorizing a religious organization to file a late application for an exemption from ad valorem taxation.

41-2385

Legislation relating to the operation and funding of the Public Utility Commission of Texas.

41-2384

Legislation relating to the personal liability of certain governmental officers and employees.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 5th day of June, 1990.

Pursuant to Article III, Section 40 and Article IV, Section 8 of the Texas Constitution, I, William P. Clements, Jr., Governor of Texas, do hereby submit the following matters for consideration by the Seventy-first Texas Legislature in its Sixth Called Session:

Legislation relating to the powers of the Gulf Coast Waste Disposal Authority.

Legislation relating to the authority of a county road district to refinance road district bonds by issuing alternative refunding bonds or certificates of assessment.

Legislation relating to the operation on highways of certain farm vehicles transporting hazardous material.

Legislation relating to operation on highways of vehicles transporting seed cotton modules.

Legislation relating to the duties of the office of the district attorney of the 110th Judicial District.

Legislation relating to aid to school districts for acquisition, construction, renovation or improvement of certain instructional facilities or capital assets; making an appropriation.

Legislation relating to the dissolution of the Concho County Water Control and Improvement District No. 1.

Legislation making technical corrections to H.B. 2335, 71st Legislature, Regular Session.

Legislation relating to the annexation of land to and the exclusion of land from the Brazosport Water Authority.

Legislation relating to allocation of funds by the Texas Water Development Board for the Sulphur River Basin Authority.

Legislation relating to the definition of pen-reared birds and depredating animals.

Legislation relating to an employer's chargeback liability for unemployment compensation benefits based on separations from employment caused by certain natural disasters.

Legislation relating to the creation, administration, powers, duties, operation, and financing of the Williamson-Travis Counties Water Control and Improvement District No. 1.

Legislation relating to the imposition of court costs in certain criminal cases for the funding of the crime stoppers assistance account; making an appropriation.

Legislation relating to a student health services building fee at The University of Texas at Austin.

Legislation relating to conforming Chapters 361 and 363, Health and Safety Code (the Solid Waste Disposal Act and the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act), to certain enactments of the 71st Legislature, Regular Session, 1989, and to making certain corrective and other conforming amendments to the Health and Safety Code.

Legislation relating to tuition and fee payments at certain institutions of higher education.

Legislation relating to emergency appropriations to the institutional division of the Texas Department of Criminal Justice for projects related to corrections institutions and the use of previously appropriated funds for those projects.

Legislation relating to the administration of medications by nursing students and medication aide trainees to residents of nursing and convalescent institutions and patients of home health agencies; making an appropriation.

Legislation relating to proposing constitutional amendments adjusting the per diem of the lieutenant governor and members of the Legislature.

Legislation relating to establishing the Indigent Inmate Defense Program and to transferring appropriations related to the representations of indigent inmates.

Legislation relating to exemption for full-service gasoline stations during certain times from the requirement to provide refueling service to disabled persons.

Legislation relating to the composition and terms of the board of directors of the Texas High-Speed Rail Authority.

Legislation relating to the engineering and science recruitment fund.

Legislation relating to procedures for adding territory to certain rapid transit authorities.

Legislation relating to the procedure by which a county may sell real property.

Legislation relating to the elimination of duplicate citations in certain enacted codes.

Legislation relating to the County Court at Law of Nacogdoches County.

Legislation relating to the power of a commissioners court in a county of 2.39 million or more population to set an optional motor vehicle registration fee not to exceed \$10.

The Secretary of State shall take notice of this action and notify the Legislature.

IN TESTIMONY WHEREOF, I have hereunto signed my name officially and caused the seal of the State to be affixed hereto at Austin, this 6th day of June, 1990.

/s/W. P. Clements, Jr.  
William P. Clements, Jr.  
Governor of Texas

ATTEST:

/s/George S. Bayoud, Jr.  
George S. Bayoud, Jr.  
Secretary of State

#### REPORTS OF STANDING COMMITTEES

By unanimous consent, Senator McFarland submitted the following report for the Committee on Criminal Justice:

**S.B. 29**

By unanimous consent, Senator Harris submitted the following report for the Committee on Economic Development:

**S.B. 55**

**S.B. 56**

**S.B. 59**

**S.B. 61**

**S.B. 62**

**S.B. 64**

**S.B. 65**

**S.B. 66**

#### SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

**S.B. 67** by Caperton

State Affairs

Relating to the defense of indigent inmates charged with offenses committed while in the custody of the institutional division of the Texas Department of Criminal Justice; making an appropriation.

**S.B. 68** by Johnson, Krier

State Affairs

Relating to establishing the Texas partnership and scholarship program.

#### **HOUSE BILL AND RESOLUTION ON FIRST READING**

The following bill and resolution received from the House were read the first time and referred to the Committee indicated:

**H.J.R. 1**, To Committee on State Affairs.

**H.B. 80**, To Committee on State Affairs.

#### **SENATE RESOLUTION 41**

Senator Truan offered the following resolution:

WHEREAS, The Texas Senate takes great pleasure in honoring one of its most distinguished members, The Honorable H. Tati Santiesteban, for his exceptional services to the State of Texas and the citizens of El Paso County for more than 20 years; and

WHEREAS, His legislative career began in 1967 when he was elected to the House of Representatives; and

WHEREAS, Since his arrival in the Senate in 1973, Senator Santiesteban quickly assumed a leadership role with his appointment to the powerful Senate Finance Committee and was the first Hispanic appointed Chairman of a Standing Committee, the Natural Resources Committee; and

WHEREAS, A diligent and effective worker for the protection of our environment, Senator Santiesteban has chaired the Committee on Natural Resources, advocating legislation for the expansion, improvement, and protection of Texas parks and wildlife; for the preservation of the state's coastal areas, fresh water streams, and desert vegetation; and for enhancement of public recreational opportunities on state-owned land; and

WHEREAS, His concerns for increasing opportunities for Texans have led to his sponsorship of numerous bills designed to ensure economic and educational reforms; and

WHEREAS, A native of El Paso where he attended public schools, Senator Santiesteban graduated from New Mexico Military Institute with a bachelor of arts degree and a commission of second lieutenant in the United States Army; and

WHEREAS, While attending the law school at The University of Texas at Austin, he was elected president of the student body and served in various student organizations; and

WHEREAS, After graduating with a doctor of jurisprudence degree in 1962, the new attorney opened law offices in El Paso and Austin where he continues to practice; and

WHEREAS, Senator Santiesteban's involvement in community affairs includes his membership in those organizations to which he devotes his time and energies: he is a director of the Boy Scouts of America; the Anthony E. Bullard Memorial Sickle Cell Disease Association; and the El Paso Cancer Center; and

WHEREAS, He is an active member of the League of United Latin American Citizens and the El Paso Chamber of Commerce and is the Texas representative of the Gulf States Marine Fisheries Council; and

WHEREAS, In 1987, Senator Santiesteban helped organize the Senate Hispanic Caucus and served as its first Chairman until 1989; and

WHEREAS, His ability to produce by doodling very creative and artistic geometric designs is well known; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 5th Called Session, hereby extend heartfelt gratitude to Senator H. Tati Santiesteban for his untiring efforts on behalf of District 29 and the citizens of Texas; and, be it further

RESOLVED, That a copy of this Resolution be prepared for him as a token of the respect and admiration of the Texas Senate with all best wishes for the future.

TRUAN  
URIBE  
BARRIENTOS  
ZAFFIRINI  
TEJEDA

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Truan and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

#### SENATE RESOLUTION 42

Senator Truan offered the following resolution:

WHEREAS, The Senate of the State of Texas is proud to honor the notable career of The Honorable Hector R. Uribe who is retiring from this political body at the end of the legislative session; and

WHEREAS, Senator Uribe came to the Texas Senate in February, 1981, after serving three years in the House of Representatives; and

WHEREAS, Elected to the Senate in a special election, the Brownsville native has sponsored over 250 pieces of legislation that have become law; and

WHEREAS, His legislative career has been highlighted by his interest in economic development and job creation; and

WHEREAS, A seventh-generation Texan who believes that a strong educational system is essential in attracting industrial and economic expansion, Senator Uribe sponsored numerous bills directed at improving the quality of education in the Rio Grande Valley and throughout the state; and

WHEREAS, This eminent attorney is the author of the Texas Enterprise Zone Act and serves as a director of the Texas Association of Enterprise Zones; and

WHEREAS, His colleagues have honored him with the chairmanship of the Senate Subcommittee on Water and the vice-chairmanship of the Senate Health and Human Services Committee; he has brought his knowledge and ability to the Senate Education, Natural Resources, and Nominations committees; and

WHEREAS, Senator Uribe represents Texas on the Energy Committee of the Southern Legislative Conference, the International Trade Committee of the National Conference of State Legislatures, and the Natural Energy and Water Resources Interstate Compact; and

WHEREAS, The senator received his education at the University of Miami where he earned his bachelor of arts and doctor of jurisprudence degrees and returned to his native state to practice law in El Paso as a fellowship recipient with the Smith Fellowship Program; and

WHEREAS, Senator Uribe has built a highly regarded law practice in the Lower Rio Grande Valley where he also manages the family business; co-counsel in the MALDEF lawsuit, Senator Uribe was a party to the successful appeal in the Edgewood v. Kirby public school finance lawsuit; and

WHEREAS, Vitally interested in the betterment of his community, he is active in the Rio Grande Valley Chamber of Commerce and the Cameron County Bar Association; and

WHEREAS, The citizens of South Texas and the entire state are fortunate in having had the commitment of their senator from the 27th District who has so ably addressed their interests and concerns; now, therefore, be it

RESOLVED, That the Senate of the State of Texas, 71st Legislature, 5th Called Session, hereby express its heartfelt appreciation to Senator Hector R. Uribe for his dedication to the people of District 27 and for his exceptional accomplishments on behalf of those he so faithfully serves; and, be it further

RESOLVED, That a copy of this Resolution be prepared for the honorable senator as an expression of deep admiration and with all best wishes for the future.

TRUAN  
SANTIESTEBAN  
BARRIENTOS  
ZAFFIRINI  
TEJEDA

The resolution was read.

On motion of Senator Brooks and by unanimous consent, the names of the Lieutenant Governor and Senators were added to the resolution as signers thereof.

On motion of Senator Truan and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

#### MESSAGE FROM THE HOUSE

House Chamber  
June 6, 1990

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 23**, Relating to an employer's chargeback liability for unemployment compensation benefits based on separations from employment caused by certain natural disasters. (As amended)

**S.B. 13**, Relating to emergency appropriations to the institutional division of the Texas Department of Criminal Justice for projects related to corrections institutions and the use of previously appropriated funds for those projects. (As amended)

**S.B. 41**, Relating to the operations of the institutional division, pardons and paroles division, and community justice assistance division of the Texas Department of Criminal Justice and the operations of the Texas Council on Offenders with Mental Impairments; making an appropriation. (As amended)

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### SENATE BILL 39 ON SECOND READING

On motion of Senator Ellis and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 39**, Relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the

power of certain entities to contract with the district; authorizing a tax; and granting the authority to issue bonds.

The bill was read second time and was passed to engrossment viva voce vote.

#### **SENATE BILL 39 ON THIRD READING**

Senator Ellis moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 39 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 0.

Absent-excused: Bivins, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read third time and was passed by the following vote: Yeas 24, Nays 0. (Same as previous roll call)

#### **SENATE RULE 7.22(b) SUSPENDED**

On motion of Senator Sims and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to S.B. 23.

#### **SENATE BILL 23 WITH HOUSE AMENDMENT**

Senator Sims called S.B. 23 from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

#### **Floor Amendment - McCollough**

Amend S.B. 23 as follows:

- (1) Beginning on page 3, line 7, strike "October" and substitute "April";
- (2) On page 3, line 17, strike "1991" and substitute "1990".

The amendment was read.

Senator Sims moved to concur in the House amendment to S.B. 23.

The motion prevailed by the following vote: Yeas 24, Nays 0.

Absent-excused: Bivins, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

#### **MESSAGE FROM THE HOUSE**

House Chamber  
June 6, 1990

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**S.B. 5**, Relating to courses offered by branch campuses of junior colleges located in certain counties.

**S.B. 17**, Relating to the imposition of court costs in certain criminal cases for the funding of the crime stoppers assistance account; making an appropriation.

**S.B. 46**, Relating to the administration of medications by nursing students and medication aide trainees to residents of nursing and convalescent institutions and



patients of home health agencies; creating offenses and providing penalties; making an appropriation.

**S.B. 24**, Relating to the definitions of pen-reared birds and depredating animals.

**S.B. 53**, Relating to the procedure by which a county may sell real property.

**S.B. 34**, Relating to the powers of the Gulf Coast Waste Disposal Authority.

**S.B. 35**, Relating to the annexation of land to and the exclusion of land from the Brazosport Water Authority.

**S.B. 49**, Relating to the County Court at Law of Nacogdoches County.

**S.B. 18**, Relating to the creation, administration, powers, duties, operation, and financing of the Williamson-Travis Counties Water Control and Improvement District No. 1.

**S.B. 9**, Relating to the duties of office of the district attorney of the 110th Judicial District.

**S.B. 6**, Relating to the dissolution of the Concho County Water Control and Improvement District No. 1.

**S.B. 16**, Relating to a student health services building fee at The University of Texas at Austin.

**H.B. 13**, Relating to the operation on highways of certain farm vehicles transporting hazardous materials.

**H.B. 14**, Relating to the operation on highways of vehicles transporting seed cotton modules.

**H.B. 47**, Relating to tuition and fee payments at certain institutions of higher education.

**H.B. 48**, Relating to an exemption for full-service gasoline stations during certain times from the requirement to provide refueling service to disabled persons.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

#### HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

**H.B. 48**, To Committee on State Affairs.

**H.B. 47**, To Committee on State Affairs.

**H.B. 14**, To Committee on State Affairs.

**H.B. 13**, To Committee on State Affairs.

#### SENATE BILL 62 ON SECOND READING

On motion of Senator Brooks and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 62**, Relating to the promotion, regulation, and coordination of aquaculture and the fish farming industry; making appropriations.

The bill was read second time and was passed to engrossment viva voce vote.

**SENATE BILL 62 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 62 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 0.

Absent-excused: Bivins, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read third time and was passed viva voce vote.

**SENATE BILL 66 ON SECOND READING**

On motion of Senator Brooks and by unanimous consent, the regular order of business and Senate Rule 7.13 were suspended to take up for consideration at this time on its second reading and passage to engrossment:

**S.B. 66**, Relating to a commercial fisheries marketing council in the agriculture department.

The bill was read second time and was passed to engrossment viva voce vote.

**SENATE BILL 66 ON THIRD READING**

Senator Brooks moved that the Constitutional Rule and Senate Rule 7.19 requiring bills to be read on three several days be suspended and that S.B. 66 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 24, Nays 0.

Absent-excused: Bivins, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read third time and was passed viva voce vote.

**MESSAGE FROM THE HOUSE**

House Chamber  
June 6, 1990

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**H.B. 9**, Relating to the authority of a county road district to refinance road district bonds by issuing alternative refunding bonds or certificates of assessment.

**H.B. 22**, Relating to the procedures for adding territory to certain rapid transit authorities.

**H.B. 32**, Relating to the engineering and science recruitment fund.

**H.B. 36**, Relating to authorizing a religious organization to file a late application for an exemption from ad valorem taxation.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**HOUSE BILLS ON FIRST READING**

The following bills received from the House were read the first time and referred to the Committee indicated:

- H.B. 9,** To Committee on State Affairs.
- H.B. 22,** To Committee on State Affairs.
- H.B. 32,** To Committee on State Affairs.
- H.B. 36,** To Committee on State Affairs.

**HOUSE CONCURRENT RESOLUTION 22**

The President Pro Tempore laid before the Senate the following resolution:

**H.C.R. 22,** Requesting President Bush and the U.S. Congress to reject proposals to increase federal excise taxes on beer, wine, cigarettes and gasoline.

The resolution was read.

Senator Caperton offered the following amendment to the resolution:

Amend **H.C.R. 22**, following the second WHEREAS, by changing the language enumerating the five taxable items to read as follows:

- (1) beer
- (2) wine
- (3) distilled spirits
- (4) cigarettes
- (5) gasoline

The amendment was read and was adopted viva voce vote.

On motion of Senator Caperton and by unanimous consent, the resolution as amended was considered immediately and was adopted viva voce vote.

**RECORD OF VOTE**

Senator Parker asked to be recorded as voting "Nay" on the adoption of the resolution.

**SENATE BILL 44 ON THIRD READING**

Senator Sims, on behalf of Senator Bivins, moved that the regular order of business be suspended and that **S.B. 44** be placed on its third reading and final passage.

**S.B. 44,** Relating to property rights in, and the establishment of a wildlife management area along and in the vicinity of, the Canadian River bed; making an appropriation.

The motion prevailed by the following vote: Yeas 23, Nays 0, Present-not voting 1.

Present-not voting: Montford.

Absent-excused: Bivins, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read third time and was passed viva voce vote.

**RECORD OF VOTE**

Senator Montford asked to be recorded as voting "Present-not voting" on the final passage of the bill.

**SENATE RULE 11.11 SUSPENDED**

On motion of Senator Montford and by unanimous consent, Senate Rule 11.11 and all other necessary rules were suspended in order that the Committee on State Affairs might consider the following bills and resolution at 3:45 p.m. today:

<b>S.B. 67</b>	<b>H.B. 80</b>
<b>S.B. 68</b>	<b>H.B. 7</b>
<b>H.J.R. 1</b>	<b>H.B. 9</b>
<b>H.B. 13</b>	<b>H.B. 22</b>
<b>H.B. 14</b>	<b>H.B. 32</b>
<b>H.B. 47</b>	<b>H.B. 36</b>
<b>H.B. 48</b>	

**SENATE RULE 7.22(b) SUSPENDED**

On motion of Senator Dickson and by unanimous consent, Senate Rule 7.22(b) was suspended as it relates to the House amendment to S.B. 13.

**SENATE BILL 13 WITH HOUSE AMENDMENT**

Senator Dickson called S.B. 13 from the President's table for consideration of the House amendment to the bill.

The President Pro Tempore laid the bill and the House amendment before the Senate.

**Amendment - Tallas**

Amend S.B. 13 by adding the following new sections, appropriately numbered, to read as follows:

**SECTION . PRISON EDUCATION AND RECREATION.** The amount appropriated to the Department of Corrections by Item 3.e., page I-83, General Appropriations Act, for Project Rio is reduced by \$3.0 million from the General Revenue Funds for the fiscal biennium ending August 31, 1991.

**SECTION . PUBLIC UTILITY COMMISSION.** ( ) In addition to the amounts previously appropriated for the biennium ending August 31, 1991, the sum of \$3.0 million is appropriated for the biennium ending August 31, 1991 from the general revenue fund to the Public Utility Commission for the purposes of Items 1, 2, and 3, page I-293, General Appropriations Act (Chapter 1263, Acts of the 71st Legislature, Regular Session, 1989).

( ) The unobligated and unexpended balances of appropriations for the fiscal year ending August 31, 1990, are reappropriated to the commission for the same purposes for the fiscal year ending August 31, 1991.

( ) Should legislation be enacted that increases the assessment imposed under Section 78, Public Utility Regulatory Act (Article 1446c, Vernon's Texas Civil Statutes) and makes an appropriation to the Public Utility Commission, this Section and the preceding Section shall not go into effect.

The amendment was read.

Senator Dickson moved to concur in the House amendment to S.B. 13.

The motion prevailed by the following vote: Yeas 24, Nays 0.

Absent-excused: Bivins, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

**MESSAGE FROM THE HOUSE**

House Chamber  
June 6, 1990

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

**H.B. 7**, Relating to the personal liability of certain governmental officers and employees.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**HOUSE BILL ON FIRST READING**

The following bill received from the House was read the first time and referred to the Committee indicated:

**H.B. 7**, To Committee on State Affairs.

**RECESS**

On motion of Senator Montford, the Senate at 3:36 p.m. took recess until 4:30 p.m. today.

**AFTER RECESS**

The Senate met at 4:30 p.m. and was called to order by President Pro Tempore McFarland.

**LEAVE OF ABSENCE**

Senator Carriker was granted leave of absence for the remainder of today on account of important business on motion of Senator Brooks.

**REPORT OF STANDING COMMITTEE**

By unanimous consent, Senator Montford submitted the following report for the Committee on State Affairs:

**H.B. 9**  
**H.B. 14**  
**H.B. 32**  
**H.B. 36**  
**H.B. 47**  
**H.B. 48**  
**H.B. 80**  
**H.J.R. 1**  
**H.B. 22** (Amended)

**CO-AUTHOR OF SENATE BILL 1**

On motion of Senator Parker and by unanimous consent, Senator Edwards will be shown as Co-author of **S.B. 1**.

**HOUSE BILL 9 ON SECOND READING**

Senator Armbrister moved that Senate Rules 5.09, 7.19 and 7.25 and the Constitutional Rule requiring bills to be read on three several days be suspended

to place on its second reading and passage to third reading and on its third reading and final passage:

**H.B. 9**, Relating to the authority of a county road district to refinance road district bonds by issuing alternative refunding bonds or certificates of assessment.

The motion prevailed by the following vote: Yeas 21, Nays 1.

Nays: Krier.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read second time and was passed to third reading viva voce vote.

#### **HOUSE BILL 9 ON THIRD READING**

The Constitutional Rule requiring bills to be read on three several days having been suspended, the President Pro Tempore laid **H.B. 9** before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 1.

Nays: Krier.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

#### **HOUSE BILL 47 ON SECOND READING**

Senator Brooks moved that Senate Rules 5.09, 7.19 and 7.25 and the Constitutional Rule requiring bills to be read on three several days be suspended to place on its second reading and passage to third reading and on its third reading and final passage:

**H.B. 47**, Relating to tuition and fee payments at certain institutions of higher education.

The motion prevailed by the following vote: Yeas 22, Nays 0.

Absent: Henderson

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read second time and was passed to third reading viva voce vote.

#### **HOUSE BILL 47 ON THIRD READING**

The Constitutional Rule requiring bills to be read on three several days having been suspended, the President Pro Tempore laid **H.B. 47** before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 0.

Absent: Henderson

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

**HOUSE BILL 48 ON SECOND READING**

Senator Brooks moved that Senate Rules 5.09, 7.19 and 7.25 and the Constitutional Rule requiring bills to be read on three several days be suspended to place on its second reading and passage to third reading and on its third reading and final passage:

**H.B. 48**, Relating to an exemption for full-service gasoline stations during certain times from the requirement to provide refueling service to disabled persons.

The motion prevailed by the following vote: Yeas 22, Nays 0.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read second time and was passed to third reading viva voce vote.

**HOUSE BILL 48 ON THIRD READING**

The Constitutional Rule requiring bills to be read on three several days having been suspended, the President Pro Tempore laid **H.B. 48** before the Senate on its third reading and final passage.

The bill was read third time and was passed viva voce vote.

**HOUSE BILL 22 ON SECOND READING**

Senator Brooks moved that Senate Rules 5.09, 7.19 and 7.25 and the Constitutional Rule requiring bills to be read on three several days be suspended to place on its second reading and passage to third reading and on its third reading and final passage:

**H.B. 22**, Relating to the procedures for adding territory to certain rapid transit authorities.

The motion prevailed by the following vote: Yeas 22, Nays 0.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read second time.

Senator Ellis offered the following committee amendment to the bill:

Amend **H.B. 22** by adding the following new sections, which should be renumbered appropriately:

**SECTION . CREATION; LEGISLATIVE DECLARATION.** (a) There is created and established a special district, to be known as Houston Downtown Management District, that is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution and to the accomplishment of the other public purposes stated in this Act.

(d) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the downtown area

of Houston and in the Houston metropolitan area. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve the City of Houston or the Metropolitan Transit Authority of Harris County, Texas, from providing the present level of services to the area included within the district or to release the City of Houston or the transit authority from the obligations it has to provide municipal or transit service to that area. The district is created to supplement and not supplant the municipal or transit services of the city and transit authority.

**SECTION . BOUNDARIES.** The boundaries of the district are as follows: 705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas more particularly described as follows:

**BEGINNING** at the intersection of the center line of the right of way of Commerce Avenue with the center line of the right of way of Austin Street,

Thence in a southwesterly direction with the center line of the right of way of Austin Street to the intersection with the center line of the right of way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right of way of Capitol Avenue to the intersection with the center line of the right of way of Chartres Street,

Thence in a southwesterly direction with the center line of the right of way of Chartres Street to the intersection with the center line of the right of way of Clay Avenue,

Thence in a northwesterly direction with the center line of the right of way of Clay Avenue to the intersection with the center line of the right of way of Caroline Street,

Thence in a southwesterly direction with the center line of the right of way of Caroline Street to the intersection with the center line of the right of way of Pierce Avenue,

Thence in a northwesterly direction with the center line of the right of way of Pierce Avenue to the intersection with the center line of the right of way of Bagby Street,

Thence in a northeasterly direction with the center line of the right of way of Bagby Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of W. Dallas Street,

Thence in a westerly direction with the center line of the right of way of W. Dallas Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of Allen Parkway,

Thence in an easterly direction with the center line of the right of way of Allen Parkway to the intersection with a southerly projection of the center line of the right of way of Sabine Street,

Thence in a northerly direction with a southerly projection of the center line of the right of way of Sabine Street and then with the center line of the right of way of Sabine Street to the intersection with the north right of way line of Memorial Drive,

Thence in an easterly direction with the north right of way line of Memorial Drive to the intersection with the west right of way line of Interstate Highway 45,



Thence in a northeasterly direction with the west right of way line of Interstate Highway 45 to the intersection with the center line of the right of way of Franklin Avenue,

Thence in an easterly direction with the center line of the right of way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right of way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to the intersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way to the intersection with the center line of the right of way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right of way of North San Jacinto Street to the intersection with the center line of the right of way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right of way of Commerce Avenue to The Point of Beginning, containing 705 acres, more or less, including, without limitation, all air space above and all subsurface below said property.

**SECTION . FINDINGS RELATING TO BOUNDARIES.** The legislature finds that the boundaries and field notes of the district form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect assessments or taxes, or in any other manner affects the legality or operation of the district or its governing body.

**SECTION . FINDING OF BENEFIT AND PUBLIC PURPOSE.** (a) The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution and other powers granted under this Act and that the district is created to serve a public use and benefit.

(b) The legislature finds that the creation of the district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment, and the development or expansion of transportation and commerce, is in the public interest, and will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district, and the general public. The district will provide needed funding for the Houston downtown area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center. The present and prospective traffic congestion in the district, the need for traffic control and the safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and the district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by the district will be attractive, safe, and convenient and will benefit not only the land and property in the district but also the employees, employers, and consumers of the district and the general public. The district will further promote the health, safety, welfare, morals, convenience, and enjoyment of

the public by landscaping and developing certain areas within the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty. The district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

SECTION . BOARD OF DIRECTORS. (a) The district is governed by a board of 30 directors who shall serve for staggered terms of four years.

(b) The following persons shall constitute the initial board of the district subject to city council approval as provided by Subsection (c) of this section and for the terms provided by that subsection:

Position No. 1	Allison M. Baxter;
Position No. 2	Gordon B. Bonfield;
Position No. 3	Kirbyjon H. Caldwell;
Position No. 4	Deborah Christie;
Position No. 5	Algenita Scott Davis;
Position No. 6	Benaye Demby;
Position No. 7	James L. Dunlap;
Position No. 8	C. Richard Everett;
Position No. 9	Herlinda Garcia;
Position No. 10	Dennis L. Greer;
Position No. 11	A. Martin Wickliff, Jr.;
Position No. 12	Gary W. Warwick;
Position No. 13	C. Hastings Johnson;
Position No. 14	Lynda W. Lewis;
Position No. 15	Peggy V. McCormick;
Position No. 16	Marvin G. Marshall;
Position No. 17	Sharon Michael;
Position No. 18	Charles Miller;
Position No. 19	Manuel T. Pacheco;
Position No. 20	Frank E. Petty;
Position No. 21	Melanie Ringo;
Position No. 22	Ulrich E. Porzig;
Position No. 23	Mark M. Sacco;
Position No. 24	Emil Pena;
Position No. 25	Omar Sawaf;
Position No. 26	Joseph Sanchez;
Position No. 27	C. Richard Vermillion, Jr.;

Position No. 28	Alison W. Leland;
Position No. 29	Milton L. Scott;
Position No. 30	Susan E. Workman.

(c) During the 60-day period beginning on the date on which this Act takes effect, the city council of the City of Houston may, by majority vote, reject the appointment of any of the initial directors appointed under Subsection (b) of this section. If the city council rejects the appointment of one or more directors, the remaining initial directors shall nominate a new person to fill each vacancy. The city council may require the remaining initial directors to submit additional nominations if the city council is not satisfied with the previous nomination. An initial director who is rejected by the city council continues to serve on the board until a successor is appointed and qualifies. If the city council fails to reject the appointment of an initial director during the 60-day period, the person's appointment is considered to be accepted by the city council. Of the initial directors, the directors appointed for positions 23 through 30 shall serve until September 1, 1994, the directors appointed for positions 16 through 22 shall serve until September 1, 1993, the directors appointed for positions 9 through 15 shall serve until September 1, 1992, and the directors appointed for positions 1 through 8 shall serve until September 1, 1991.

(d) Except as provided by Subsection (e) of this section and Section 6 of this Act, to be qualified to serve as a director, a person must be at least 18 years old and:

- (1) a resident of the district;
- (2) an owner of property in the district;
- (3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;
- (4) an owner of a beneficial interest in a trust that owns property in the district; or
- (5) an agent, employee, or tenant of one of the persons covered by Subdivisions (2) through (4) of this subsection.

(e) To be qualified to serve as director in position 3, 9, or 12, a person must be at least 18 years of age and determined by the city council to represent the interests of the downtown community.

(f) Except for directors appointed under Subsections (b) and (i) of this section, succeeding directors shall be selected as provided herein. The existing board of directors shall make nominations for persons to serve on the board and submit such recommendations to the city council of Houston. The city council shall review the nominations and shall appoint subsequent directors from the list of nominations. If the city council is not satisfied with the nominations submitted by the board, the board shall submit additional nominations for consideration. Board members may serve successive terms. If for any reason this provision is found to be invalid, the board shall be appointed by the Texas Water Commission. In the event the board is selected by the commission, the commission shall solicit suggestions from existing board members concerning persons who would be eligible to represent the various interests in the district before appointing subsequent directors. The city council or the commission shall make appointments to the board so that the following places on the board will be occupied by persons with experience in the following areas:

- Positions 2, 4, 6, 7, and 20—energy matters;
- Positions 5, 14, and 27—commercial banking;
- Positions 8, 10, 13, and 16—real estate development;
- Positions 1, 23, and 25—finance and insurance matters;
- Positions 11, 15, 19, 22, 26, 29, and 30—matters relating to retail or the provision of services;
- Positions 17 and 21—provision of utilities; and
- Positions 3, 9, 12, 18, 24, and 28—at-large.

(g) Except as provided by Subsection (i) of this section, a person appointed director shall serve a four-year term. The city council may not appoint a person to the same position on the board of directors for more than two consecutive terms.

(h) The city council may remove a director for misconduct or failure to carry out his duties upon petition by a majority of the remaining directors.

(i) A vacancy in the office of director shall be filled by the remaining members of the board for the unexpired term.

(j) As soon as practicable after a director is appointed, he shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of his duties. Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers. The bond and oath shall be filed with the district and retained in its records.

(k) After the directors are appointed and have qualified by executing a bond and taking the proper oath, they shall organize by electing a chairman, one or more vice-chairmen, a secretary, and any other officers as in the judgment of the board are considered necessary.

(l) A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

(m) A director is not entitled to compensation for his position on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(n) Fifteen directors constitute a quorum for the consideration of matters relating to the district and a concurrence of a majority of a quorum of directors is required for any official action of the district. In addition, written consent of at least 20 directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds.

(o) A person who qualifies to serve on the board under Subsection (d) of this section and Section 6 of this Act shall be qualified to serve as a director and participate in all votes pertaining to the business of the district regardless of any statutory provision to the contrary. A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit. An employee of a public entity may serve on the board of directors of the district, but that public employee may not participate in the discussion of or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

#### SECTION . DISQUALIFICATIONS FROM BOARD MEMBERSHIP.

(a) For purposes of this section, a person has a substantial interest in a business entity if:

(1) the person owns:

(A) 10 percent or more of the voting stock or shares of the business entity; or

(B) 10 percent or more of the fair market value of the business entity; or

(2) funds received by the person from the business entity exceed 10 percent of the person's gross income for the previous year.

(b) A member of the board of directors, the city council of the City of Houston, the commissioners court of Harris County, or the state legislature is considered to have a substantial interest under this section if a person related to the member in the first degree by consanguinity or affinity has a substantial interest under this section.

(c) A person is disqualified from serving as a member of the board of directors if the person:

(1) is related within the third degree of affinity or consanguinity to a member of the board of directors, the city council of the City of Houston, the commissioners court of Harris County, or the state legislature; or

(2) has a substantial interest in a business entity in which a member of the board of directors, the city council of the City of Houston, the commissioners court of Harris County, or the state legislature also has a substantial interest.

(d) The validity of an action of the board of directors is not affected by the fact that it was taken during a period when a person who was disqualified under this section served on the board.

(e) In this section, "business entity" has the meaning assigned by Section 171.001, Local Government Code.

**SECTION . DEFINITIONS.** In this Act:

(1) "Board" means the district's board of directors.

(2) "Bonds" means any type of interest-bearing obligation, including without limitation a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "City" means the City of Houston.

(4) "Commission" means the Texas Water Commission.

(5) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit of which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, that may include black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, that have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control;

(B) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by one or more persons described by Paragraph (A) of this subdivision;

(C) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the partnership must be owned by one or more persons described by Paragraph (A) of this subdivision, and minority or women partners must have a proportionate interest in the control, operation, and management of the partnership affairs;

(D) a joint venture between minority and women's group members for the purpose of making a profit in which the minority participation is based on the sharing of real economic interest and must include equally proportionate control over management, interest in capital, and interest earnings. If majority group members own or control debt securities, leasehold interest, management contracts, or other interests, the joint venture shall not be designated a disadvantaged business; or

(E) a supplier contract between persons described in Paragraph (A) of this subdivision and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies.

(6) "District" means the Houston Downtown Management District.

**SECTION . GENERAL POWERS.** (a) The district has all of the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water Code. The district may contract and manage its affairs and funds for any corporate purpose in accordance with Chapter 54, Water Code. In addition, the

district has all the rights, powers, privileges, authority, and functions of road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including the power to levy ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes or mass transportation, or in aid thereof, in the manner and subject to the limitations provided in Article III, Section 52, and Article III, Section 52-a, of the Texas Constitution. The district also has those powers conferred by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), together with the additional rights, privileges, authority, and functions contained in that Act.

(b) If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails. Any general law not in conflict or inconsistent with this Act is adopted and incorporated by reference.

**SECTION . SPECIFIC POWERS.** (a) The district shall have all the powers necessary or convenient to carry out and effect the purposes and provisions of this Act, including the powers granted in this section.

(b) The district has perpetual succession.

(c) The district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving supersedeas or cost bond.

(d) The district may incur liabilities, borrow money on terms and conditions the board determines, and issue notes, bonds, or other obligations.

(e) The district may acquire by grant, purchase, gift, devise, lease, or otherwise and may hold, use, sell, lease, or dispose of real and personal property, and licenses, patents, rights, and interests necessary, convenient or useful for the full exercise of any of its powers pursuant to this Act.

(f) The district may acquire, construct, complete, develop, own, operate, and maintain permanent improvements and provide services inside and outside its boundaries. With the consent of the city, the district is entitled to use the streets, alleys, roads, highways, and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other property, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system or to have those things done at the district's sole expense. The district may not proceed with any action to change, alter, or damage the property or facilities of the state, its municipal corporations, agencies, or political subdivisions or of owners rendering public services, or that will disrupt those services being provided by others, or to otherwise inconvenience the owners of that property or those facilities, without having first obtained the written consent of those owners. If the owners of the property or facilities desire to handle the relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(g) If the district, in exercising any of the powers conferred by this Act, requires the relocation, adjustment, raising, lowering, rerouting, changing the grade of, or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad tract, bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any telephone or telegraph lines, conduits, or other facilities or property, any gas transmission or distribution pipes, pipelines, mains,

or other facilities or property, any water, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities or property, any cable television lines, cables, conduits, or other facilities or property, or any other pipelines and any facilities or properties relating to those pipelines, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

(h) The district may enter into agreements with a person or entity, public or private, for the joint use of their respective facilities, installations, and property.

(i) The district may establish and maintain reasonable and nondiscriminatory rates, fares, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(j) The district may enter contracts, leases, and agreements with and accept grants and loans from the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable. The district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

(k) The district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or property that are not needed for or, in the case of leases, that are not inconsistent with, the efficient operation and maintenance of the district's improvements. The district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

(l) The district may lease projects or any part of a project to or contract for the use or operation of the projects or any part of a project by any operator.

(m) The district may conduct hearings and take testimony and proof, under oath or affirmation, at public hearings on any matter necessary to carry out the purposes of this Act.

(n) The district may procure and pay premiums to insurers for insurance of any type in amounts considered necessary or advisable by the board.

(o) The district may do any thing necessary, convenient, or desirable to carry out the powers expressly granted or implied by this Act.

(p) The responsibility for the management, operation, and control of the property belonging to the district is vested in the board.

(q) The board may:

(1) employ all persons, firms, partnerships, or corporations considered necessary by the board for the conduct of the affairs of the district, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers, peace or traffic control officers, architects, and operating or management companies and prescribe the duties, tenure, and compensation of each;

(2) dismiss employees;

(3) adopt a seal for the district;

(4) invest funds of the district in any investments authorized by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes) and provide by resolution that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs by an independent certified

public accountant or a firm of independent certified public accountants using generally accepted accounting principles, which audit report shall be open to public inspection, and a copy of which shall be filed with the city; and

(7) designate one or more banks to serve as the depository bank or banks.

(r) Funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board by resolution may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

(s) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.

(t) The district is a "unit of government" for purposes of the Texas Tort Claims Act (Chapter 101, Civil Practice and Remedies Code), and operations of the district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

(u) The district may not exercise the power of eminent domain.

(v) The district may not levy a tax, assessment, impact fee, charge, or other fee on land or property that is not located within the district's boundaries.

#### SECTION . POWERS AND DUTIES RELATING TO ASSESSMENTS.

(a) In addition to the powers provided by Sections 8 and 9 of this Act, the board may undertake improvement projects and/or services that confer a special benefit on all or a definable part of the district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and/or services. If the board determines that there is a benefit to the district, the district may provide improvements and/or services to an area outside the boundaries of the district. Each improvement project or service authorized by this Act is found and declared to carry out a public purpose.

(b) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and/or sidewalks; pedestrian skywalks, crosswalks, and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer, and/or power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and/or recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit and people mover equipment, facilities, and systems, including land or interests in land, stations, or terminals and facilities incidental and related thereto including commercial or shopping areas; and the cost of any demolition in connection with providing any of the improvement projects;

(2) other improvements similar to those described in Subdivision (1) of this subsection;

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this Act, Chapter 54, Water Code, or Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes);

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic congestion, recreation, and cultural enhancement; and



(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(c) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

(d) Services or improvement projects may be financed under this Act only after hearing notice given as required by this section and a public hearing by the board on the advisability of the improvements and/or services and the proposed assessments.

(e) The board of the district may not finance services and/or improvement projects under this Act unless a written petition has been filed with the board requesting those improvements or services signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas and any other property exempt from assessment pursuant to Subsection (n) or (o) of this section, based on the most recent certified county property tax rolls.

(f) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 30th day before the date of the hearing. The notice shall include the following information:

- (1) the time and place of the hearing;
- (2) the general nature of the proposed improvement project or services;
- (3) the estimated cost of the improvement that may include interest during construction and associated financing costs;
- (4) the proposed method of assessment; and
- (5) a statement inviting any interested person or that person's attorney to appear at the hearing and to present evidence or testimony for or against the assessment or the services or improvements, including evidence or testimony relating to whether the services or improvements are necessary, desirable, or feasible or the extent to which, if any, the services or improvements would benefit the district, the person's land, or other property in the district.

(g) Written notice containing the information required by Subsection (f) of this section shall be mailed by certified mail, return receipt requested, not later than the 30th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the current address of the property to be assessed as reflected on the tax rolls.

(h) The board may appoint a hearings examiner, who may be an employee of the district or a member of the district's board, to conduct the hearing, or any other hearing called by the board, including a hearing required by Chapter 395, Local Government Code. The hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(i) The hearing on the services and/or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time. At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the improvement project and/or services, the nature of the improvement project and/or services, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment. If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating his findings and conclusions.

(j) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing, but the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless the property is annexed as provided by this Act and there is an additional hearing, preceded by the required notice. However, the owner of improvements constructed in the district or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed in the district or land annexed to the district.

(k) At the hearing on proposed assessments, at any adjournments of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment. The board may amend proposed assessments for any parcel. After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property, and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments, including interest. Immediately after the district levies an assessment, written notice that an assessment has been levied shall be mailed by certified mail, return receipt requested, to each property owner in the district who is subject to that assessment. The notice shall be mailed to the current address of the property to be assessed as reflected on the tax rolls. The notice must include the amount of the assessment and a description of the person's right to appeal the assessment as provided by Subsection (s) of this section. Periodic installments shall meet annual costs for services and improvements as provided by Subsection (l) of this section and shall continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. If assessments are levied for more than one service and/or improvement project, the board may provide that assessments collected for one service and/or improvement project may be borrowed to be used for another service and/or improvement project. The board shall establish a procedure for the distribution or use of assessments, if any, in excess of those needed to finance the services or improvement project for which those assessments were collected.

(l) The portion of the cost of an improvement project and/or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project and/or services. The cost may be assessed:

(1) equally per front foot or per square foot of land area against all property in the district;

(2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) on the basis of any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

(m) Payment of assessments by municipalities, counties, political subdivisions, and organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, if any, shall be established by contract. Municipalities, counties, and political subdivisions may contract with the district under terms and conditions those entities consider advisable to provide for the payment of assessments.

(n) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily for recreational, park, or scenic use

during the immediately preceding calendar year, and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property. Property is exempt from assessment by the district pursuant to this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section. The fact that property is exempt from assessment by the district may not be construed to be an express or implied dedication of the property to the public for recreational, park, scenic, or other public use or constitute evidence of an intent by the owner of the property to make or offer to make that type of dedication and does not affect the status of the property as private property. If the district levies ad valorem taxes, property that qualifies for an exemption from assessment pursuant to this section must be taxed by the district at its appraised value for recreational, park, or scenic use determined in accordance with Subchapter F, Chapter 23, Tax Code. For the purposes of this subsection, the term "recreational, park, or scenic use" has the meaning set forth in Subchapter F, Chapter 23, Tax Code.

(o) The board may exempt residential property from all or a part of the assessments levied on that property or determine that residential property will not be benefited by the proposed improvement project or services. Single-family detached residential property in the district is exempt from assessment under this Act.

(p) If the total cost of an improvement project and/or services is determined, the board shall levy the assessments against each parcel of land against which an assessment may be levied in the district. With regard to an assessment for services, the board may levy an annual assessment that may be lower than the initial assessment. The board shall have an assessment roll prepared showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

(q) Assessments bear interest at a rate specified by the board that may not exceed the interest rate permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to each subsequent installment until paid. An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid. The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

(r) After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement project and/or services or to cover delinquencies or costs of collection.

(s) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date on which the owner receives notice that an assessment has been levied as provided by Subsection (k) of this section. The board shall set a date to hear the appeal. The property owner may appeal the board's decision on the assessment to a district court in the county in which the district is located. The property owner must file notice of the appeal with the court not later than the 30th day after the date of the board's final decision with respect to the

assessment. The review by the district court under this subsection is by trial de novo as that term is used in the appeal of cases from justice court to county court. Failure to file either of the notices in the time required by this subsection results in a loss of the right to appeal the assessment. Except as otherwise provided by this subsection, the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) governs an appeal to the board or to a district court under this subsection.

(t) If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

**SECTION . FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES.** (a) The cost of any improvement project and/or services, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project and/or services and issue bonds on completion.

(c) The costs of more than one improvement project and/or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

**SECTION . BONDS.** (a) For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements authorized under this Act, including installment payments of special assessments or from any other source pledged to their payment.

(b) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue. Provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms or conditions that may be stated in the order or resolution authorizing the issuance of the bonds.

(c) The bonds are negotiable instruments within the meaning and for purposes of the Business & Commerce Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, shall be executed, may be made redeemable before maturity, may be issued in the form, denomination, and manner, and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rates, determined and provided in the order or resolution authorizing the issuance of the bonds. Bonds may bear interest and may be issued in accordance with Chapter 503, Acts of the 54th Legislature, 1955 (Article 717k, Vernon's Texas Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(d) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or construction of any improvement project to be provided through the issuance of the bonds, to administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, and to create any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, in securities in the manner provided by the bond order or resolution.

(e) The board may pledge all or part of the income or assessments from improvement projects financed under this Act or from any other source, to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the order or resolution authorizing the issuance of the bonds to provide for the payment of expenses in connection with the bonds, and to pay operation, maintenance, and other expenses in connection with the improvement projects authorized under this Act.

(f) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this Act owned or to be acquired by the district and by chattel mortgages, liens, or security interests on personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(g) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

(h) Bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board. Refunding bonds may be issued in amounts necessary to pay the principal of and interest and redemption premium, if any, on bonds to be refunded, at maturity or on any redemption date, and to provide for the payment of costs incurred in connection with the refunding. The refunding bonds shall be issued in the manner provided by this Act for other bonds.

(i) The district shall submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination. If the bonds recite that they are secured by a pledge of assessments, impact fees, revenues, or rentals from a contract or lease, the district also shall submit to the attorney general a copy of the assessment procedures, impact fee procedures, contract, or lease and the proceedings relating to it. If the attorney general finds that the bonds have been authorized and any assessment, contract, or lease has been made in accordance with law, he shall approve the bonds and the assessment, impact fee, contract, or lease, and the bonds shall be registered by the comptroller of public accounts. After approval and registration, the bonds and any assessment, impact fee, contract, or lease relating to them are incontestable in any court or other forum for any reason and are valid and binding obligations for all purposes in accordance with their terms.

(j) District bonds are legal and authorized investments for banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians and for all interest and sinking funds and other public funds of the state and agencies, subdivisions, and instrumentalities of the state, including counties, municipalities, school districts, and other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for deposits of counties, municipalities, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to the bonds.

**SECTION . IMPOSITION OF IMPACT FEES.** The board may impose impact fees to pay for the cost of providing improvements that the district is authorized to provide pursuant to this Act, including mass transit systems. However, impact fees for mass transit systems may not be imposed without

approval of the city council of the City of Houston. The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid. The board may provide interest charges and/or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. Impact fees shall be adopted pursuant to the procedures provided by Chapter 395, Local Government Code. A municipality, county, or political subdivision is exempt from impact fees imposed by the district unless the municipality, county, or political subdivision consents to payment of the fees by official act of its governing body. Payment of impact fees, if any, by a municipality, county, or political subdivision must be established by contract. A municipality, county, or political subdivision may contract with the district under terms and conditions the governmental entity considers advisable to provide for payment of impact fees.

**SECTION . COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS.** (a) Contracts for more than \$10,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, shall be entered only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 15th day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement in the event of emergency, in the event the needed materials are available from only one source, in the event that in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement, or in the event that, after solicitation, it is ascertained that there will be only one bidder. This subsection does not apply to contracts for services.

(b) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is more than \$5,000 but less than \$25,000 or for a duration of more than two years, competitive bids shall be asked from at least three persons.

(c) The district shall attempt to stimulate the growth of disadvantaged businesses inside its boundaries by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete for district contracts. The district shall establish one or more programs designed to increase participation by disadvantaged businesses in public contract awards. Each program shall be structured to further remedial goals and shall be established to eradicate the effects of any prior discrimination. The board shall review each of its disadvantaged business programs on an annual basis to determine if each program is the most effective method for remedying historical discriminatory actions. The board's review shall determine whether statistically significant disparities exist between the disadvantaged businesses in the relevant market that are qualified to undertake district work and the percentage of total district funds that are awarded to disadvantaged businesses. A program established by the district under this section shall attempt to remedy any statistically significant disparities that are found to exist, and since a program is remedial in nature, it shall continue only until its purposes and objectives are met as determined by the regular periodic reviews.

(d) The provisions of this Act state the required procedures necessary for the district to award contracts and supersede any law or other requirement with respect to award of contracts.

**SECTION . CITY APPROVAL.** The district must obtain the approval of the city council for bond issues for an improvement project and the plans and specifications of an improvement project financed by the bond issue. The district may obtain approval from the city council of the city of a capital improvements budget, for a period not to exceed five years. If the district obtains approval of a capital improvements budget, it may finance the capital improvements and issue bonds specified in the budget without further approval from the city, the city's directors of public works, or the department of planning. However, the city's directors of public works and department of planning must approve the plans and specifications of any improvement project financed by the issuance of bonds. The district must obtain approval from the city's city council, the city's director of public works, and the city's department of planning of the plans and specifications of any improvement project that involves the use of the rights-of-way of streets, roads, or highways or the use of municipal land or any easements granted by the city. The city shall never be obligated to pay any bonds, notes, or other obligations of the district, except as provided by Subsection (c) of Section 20 of this Act.

**SECTION . EXCLUDING TERRITORY.** (a) At any time during which the district has no outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 54, Water Code, if the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of a landowner or property owner in the district filed with the secretary of the board before the issuance of bonds.

**SECTION . ELECTIONS.** (a) A bond election, maintenance tax election, and any other election held in the district may be held at the same time and in conjunction with any other election.

(b) Elections held in the district are not required to be held on a uniform election date specified in Section 41.001, Election Code, and an election shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

(c) The board may call an election for the purpose of voting on any measure.

(d) The board may not call a bond election unless a written petition requesting an election signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls at the time or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Subsections (n) and (o) of Section 10 of this Act, based on the most recent certified county property tax rolls, has been filed with the board.

(e) Bonds payable in whole or in part from taxes or assessments may not be issued unless approved by a majority or any larger percentage if required by the constitution of the qualified voters in the district voting at an election held for that purpose. The bonds must be approved by a majority of the qualified voters of the district voting at the election or by a larger number of voters as required by the constitution for certain purposes. Bonds payable from sources other than taxes may be issued by the board and assessments may be levied without approval at an election.

**SECTION . BOND APPROVAL AND BOND AND ASSESSMENT LIMIT.** (a) The district must obtain approval of the commission as provided by Chapter 54, Water Code, if it issues bonds to provide water, sewage, or drainage facilities. Except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the commission.

(b) The board may not issue bonds or levy assessments in an amount equal to more than 10 percent of the assessed value of the property in the district based on

the most recent certified county property tax rolls at the time of the bond issuance or assessment levy.

**SECTION . ANNEXATION.** The district may annex land as provided by Chapter 54, Water Code, subject to the approval of the governing body of the city. In addition, an owner of property may petition the board of directors for annexation as prescribed by Chapter 54, Water Code. The district may not annex any part of the area bounded by Allen Parkway on the north, Taft Street on the west, Gray Street on the south, and Crosby Street, including its northerly and southerly projections, on the east.

**SECTION . CONTRACTS WITH DISTRICT.** Except as provided by this section, without further authorization a state agency, municipality, county, other political subdivision, corporation, individual, or other entity may contract with the district to carry out the purposes of this Act, notwithstanding any other law or charter provisions to the contrary. No member of the legislature may directly or indirectly contract with or otherwise do business with the district while the member is in office.

**SECTION . DISSOLUTION.** (a) The board of the district by majority vote may dissolve the district at any time. However, the district may not be dissolved by the board if the district has outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(b) The board shall dissolve the district on written petition filed with the board by the owners of 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 75 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Subsections (n) and (o) of Section 10 of this Act, based on the most recent certified county property tax rolls. However, the district may not be dissolved by the board if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(c) The city's city council by a vote of not less than two-thirds of its membership may adopt an ordinance dissolving the district. However, the district may not be dissolved by the city if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

**SECTION . NOTICE AND CONSENT.** The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the Governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also the legislature finds that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

The amendment was read.



On motion of Senator Ellis and by unanimous consent, the amendment was withdrawn.

The bill was passed to third reading viva voce vote.

#### **HOUSE BILL 22 ON THIRD READING**

The Constitutional Rule requiring bills to be read on three several days having been suspended, the President Pro Tempore laid H.B. 22 before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 0.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

#### **HOUSE BILL 80 ON SECOND READING**

Senator Caperton moved that Senate Rules 5.09, 7.19 and 7.25 and the Constitutional Rule requiring bills to be read on three several days be suspended to place on its second reading and passage to third reading and on its third reading and final passage:

**H.B. 80**, Relating to the defense of indigent inmates charged with offenses committed while in the custody of the institutional division of the Texas Department of Criminal Justice; making an appropriation.

The motion prevailed by the following vote: Yeas 22, Nays 0.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read second time and was passed to third reading viva voce vote.

#### **HOUSE BILL 80 ON THIRD READING**

The Constitutional Rule requiring bills to be read on three several days having been suspended, the President Pro Tempore laid H.B. 80 before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 0.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

#### **HOUSE BILL 32 ON SECOND READING**

Senator Edwards moved that Senate Rules 5.09, 7.19 and 7.25 and the Constitutional Rule requiring bills to be read on three several days be suspended to place on its second reading and passage to third reading and on its third reading and final passage:

**H.B. 32**, Relating to the engineering and science recruitment fund.

The motion prevailed by the following vote: Yeas 22, Nays 0.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read second time and was passed to third reading viva voce vote.

**HOUSE BILL 32 ON THIRD READING**

The Constitutional Rule requiring bills to be read on three several days having been suspended, the President Pro Tempore laid **H.B. 32** before the Senate on its third reading and final passage.

The bill was read third time and was passed by the following vote: Yeas 22, Nays 0.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

**HOUSE BILL 14 ON SECOND READING**

Senator Montford moved that Senate Rules 5.09, 7.19 and 7.25 and the Constitutional Rule requiring bills to be read on three several days be suspended to place on its second reading and passage to third reading and on its third reading and final passage:

**H.B. 14**, Relating to the operation on highways of vehicles transporting seed cotton modules.

The motion prevailed by the following vote: Yeas 21, Nays 1.

Nays: Truan.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read second time and was passed to third reading viva voce vote.

**RECORD OF VOTE**

Senator Truan asked to be recorded as voting "Nay" on the passage of the bill to third reading.

**HOUSE BILL 14 ON THIRD READING**

The Constitutional Rule requiring bills to be read on three several days having been suspended, the President Pro Tempore laid **H.B. 14** before the Senate on its third reading and final passage.

The bill was read third time and was passed viva voce vote.

**RECORD OF VOTE**

Senator Truan asked to be recorded as voting "Nay" on the final passage of the bill.

(Senator Brooks in Chair)

**MOTION TO SUSPEND  
SENATE RULE 7.22(b)**

Senator McFarland moved that Senate Rule 7.22(b), as it relates to House amendments to **S.B. 41**, be suspended.

The motion to suspend Senate Rule 7.22(b) failed by the following vote: Yeas 5, Nays 16.

Yeas: Caperton, Leedom, McFarland, Montford, Ratliff.

Nays: Armbrister, Barrientos, Brooks, Brown, Dickson, Edwards, Ellis, Haley, Johnson, Krier, Parker, Sims, Tejeda, Truan, Uribe, Zaffirini.

Absent: Harris, Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

**SENATE BILL 41 WITH HOUSE AMENDMENTS**

Senator McFarland called **S.B. 41** from the President's table for consideration of the House amendments to the bill.

The Presiding Officer laid the bill and the House amendments before the Senate.

**Floor Amendment No. 1 - Stiles**

Amend **S.B. 41** by adding an appropriately numbered section to the bill to read as follows and renumbering the existing sections of the bill accordingly:

SECTION \_\_\_\_\_. House Bill 2335, as enacted by the 71st Legislature, Regular Session, 1989, devised an allocation formula that imposed on the Texas Department of Criminal Justice the obligation to accept only the inmates it could accept without exceeding capacity as defined by the board, required counties to maintain at their own expense inmates held in county jail while awaiting transfer to the institutional division, and provided that inmates awaiting transfer be deemed in the constructive custody of the institutional division and therefore able to earn credit for time served. The enactment of House Bill 2335 was consistent with both the previously existing scheduled admissions policy of the Texas Department of Corrections and with Article 104.002, Code of Criminal Procedure, which imposed on the counties the duty to maintain at county expense inmates awaiting transfer to the state prison system.

**Floor Amendment No. 2 - Garcia**

Amend Section 16(a) Article 42.12, Code of Criminal Procedure, as follows:

Sec. 16(a) A court granting probation to a defendant convicted of a felony shall may require as a condition of probation that the defendant work a specified number of hours under Section 17 of this article or work a specified number of hours in a supervision work program authorized under this section, unless the court determines that the defendant is physically or mentally incapable of participating in the work program or that participating in the work program will work a hardship on the defendant or the defendant's dependants, in which event the court shall note that fact on the order granting probation. The amount of work hours may not be less than 24 hours and may not be more than 1,000 hours. The court may not require the defendant to work more than eight hours during any week. The court shall make a good-faith effort to place the defendant in a type of work for which the defendant's previous job experience makes the defendant most suited.

**Floor Amendment No. 3 - Garcia**

Amend S.B. 41 as follows:

On page 4, line 26, between "service" and "program" insert "restitution".

**Floor Amendment No. 4 - S. Johnson**

Amend S.B. 41 by adding an appropriately numbered section to read as follows and renumbering the existing sections accordingly:

SECTION \_\_\_\_ Section 3, Article 37.07, Code of Criminal Procedure, is amended by adding Subsection (f) to read as follows:

(f) In cases in which the matter of punishment is referred to a jury, either party may offer into evidence the availability of community corrections facilities serving the jurisdiction in which the offense was committed.

**Floor Amendment No. 5 - Carter**

Amend S.B. 41 as follows:

(1) Strike Section 13 of the bill and substitute the following:

SECTION 13. Section 3(b), Article 42.13, Code of Criminal Procedure, is amended to read as follows:

(b) The division shall develop an automated probationer [information management and] tracking system that:

(1) is capable of receiving tracking data from community supervision and corrections departments' [provides a] caseload management and accounting systems [system that enables department supervision officers and caseworkers to enter and retrieve caseload data];

(2) is capable of tracking the probationer and the conviction for which the probationer received probation by name, arrest charge code, and incident number;

(3) provides the division with the statistical data it needs to support budget requests and satisfy requests for information; and

(4) [(3)] is compatible with the requirements of Chapter 60 of this code and the information systems used by the institutional division and Board of Pardons and Paroles division of the department.

(2) Insert new Sections 28 and 29 of the bill to read as follows and renumber the existing Sections 28 and 29 of the bill and subsequent sections accordingly:

SECTION 28. Chapter 60, Code of Criminal Procedure, is amended to read as follows:

**CHAPTER 60. CRIMINAL HISTORY RECORD SYSTEM**

Art. 60.01. DEFINITIONS. In this chapter:

(1) "Administration of criminal justice" means the performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of an offender. The term includes criminal identification activities and the collection, storage, and dissemination of criminal history record information.

(2) "Appeal" means the review of a decision of a lower court by a superior court other than by collateral attack. ["Arrest charge code" means a numeric code assigned to each offense category to be designated by the department.

[(2) "Centralized criminal history record information system" means the enhanced computerized criminal history system managed by the Texas Department of Criminal Justice.]

(3) "Computerized criminal history system" means the data base containing arrest, disposition, and other criminal history maintained by the Department of Public Safety.

(4) "Corrections tracking system" means the data base maintained by the Texas Department of Criminal Justice on all offenders under its supervision.

(5) "Council" means the Criminal Justice Policy Council.

(6) "Criminal justice agency" means a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and allocates a substantial part of its annual budget to the administration of criminal justice.

(7) "Criminal justice information system" means the computerized criminal history system and the corrections tracking system.

(8) [(5)] "Disposition" means an action that results in the termination, transfer to another jurisdiction, or indeterminate suspension of the prosecution of a criminal charge.

(9) [(6)] "Incident number" means a unique number assigned to a specific person during a specific arrest.

(10) "Offender" means any person who is assigned an incident number.

(11) "Offense code" means a numeric code for each offense category.

(12) "Rejected case" means:

(A) a charge that, after the arrest of the offender, the prosecutor declines to include in an information or present to a grand jury; or

(B) an information or indictment that, after the arrest of the offender, the prosecutor refuses to prosecute.

(13) [(7)] "Release" means the termination of jurisdiction over an individual by the criminal justice system.

(14) [(8)] "State identification number" means a unique number assigned by the Department of Public Safety [department] to each person whose name appears in the criminal justice [centralized criminal history record] information system.

(15) [(9)] "Uniform incident fingerprint card" means a multiple part form containing a unique incident number with space for information relating to the charge or charges for which a person is being arrested, the person's fingerprints, and other information relevant to the arrest.

Art. 60.02. INFORMATION SYSTEMS. (a) The Texas Department of Criminal Justice is responsible for recording data and establishing and maintaining a data base for a corrections tracking [centralized criminal history record information] system. [The council shall provide advice for the timely and effective implementation of this article.]

(b) The Department of Public Safety is responsible[, with cooperation from the council,] for recording data and maintaining a data base for a computerized criminal history system that serves as the record creation point for criminal history information maintained by the state.

(c) The criminal justice [computerized criminal history system and the centralized criminal history record] information system shall be established and maintained to supply the state with a system [systems]:

(1) that provides [provide] law enforcement officers with an accurate criminal history record depository;

(2) that provides [provide] criminal justice [system] agencies with an accurate criminal history record depository for operational decision making;

(3) from which accurate criminal justice system modeling can be conducted;

(4) that improves [improve] the quality of data used to conduct impact analyses of proposed legislative changes in the criminal justice system; and

(5) that ~~improves~~ [improve] the ability of interested parties to analyze the functioning of the criminal justice system.

(d) The data bases must contain the information required by this chapter.

(e) The Department of Public Safety shall designate the offense codes and has the sole responsibility for designating the state identification number for each person whose name appears in the criminal justice information system ~~[each data base]~~.

(f) ~~The Department of Public Safety and the Texas Department of Criminal Justice shall implement a system to link the computerized criminal history system and the corrections tracking system [is responsible for the operation and maintenance of the centralized criminal history record information system].~~ Data received by the Texas Department of Criminal Justice that is required by the ~~[department for the computerized criminal history record information system shall be reported to the]~~ Department of Public Safety for the preparation of a criminal history record shall be made available to the computerized criminal history system not later than the seventh day after the date on which the Texas Department of Criminal Justice receives the request for the data from the Department of Public Safety [data].

(g) The Department of Public Safety is responsible for the operation of the computerized criminal history system and shall develop the necessary interfaces in the system to accommodate inquiries from a statewide automated fingerprint identification [information] system, if such a system is implemented by the department.

(h) Whenever possible, the reporting of information relating to dispositions and subsequent offender processing data shall be conducted electronically.

(i) The Department of Public Safety and the Texas Department of Criminal Justice, with advice from the council and the Department of Information Resources, shall develop biennial plans to improve the reporting and accuracy of the criminal justice [computerized criminal history system and the centralized criminal history record] information system and to develop and maintain monitoring systems capable of identifying missing information.

(j) At least once during each five-year period~~[the Texas Department of Criminal Justice, with advice from] the council[;]~~ shall coordinate an examination of [examine] the records and operations of the criminal justice information [centralized criminal history record information system and of the computerized criminal history] system to ensure the accuracy and completeness of information in the system and to ensure the promptness of information reporting [systems]. The state auditor, or other appropriate entity selected by the council, shall conduct the examination with the cooperation of the council, the Department of Public Safety, and the Texas Department of Criminal Justice. The Department of Public Safety, the council, and the Texas Department of Criminal Justice may examine the [public] records of the agencies required to report information to the Department of Public Safety or the Texas Department of Criminal Justice. The examining entity [Texas Department of Criminal Justice] shall submit to the legislature and the council a report that summarizes the findings of each examination and contains recommendations for improving the system [systems].

(k) Not later than January 1, 1991, the council, in cooperation with the Department of Public Safety, the Texas Department of Criminal Justice, and county representatives who are selected by the council, shall:

(1) conduct a study of telecommunications networks used by law enforcement and corrections agencies;

(2) determine the feasibility and estimated cost of using networks described by the study conducted under Subdivision (1) of this subsection to transmit data required by this article between counties and state agencies, and between state agencies; and

(3) prepare recommendations for implementing a system of electronic data reporting.

Art. 60.03. INTERAGENCY COOPERATION; CONFIDENTIALITY. (a) Criminal justice agencies and the council are entitled to access to the data bases of the Department of Public Safety and the Texas Department of Criminal Justice in accordance with applicable state or federal law or regulations. [Each agency listed in Article 60.02(a) of this code shall provide access to the agency's criminal history record information system to other criminal justice agencies, including the council.] The access granted by this subsection does not grant an agency or the council the right to add, delete, or alter data maintained by another agency.

(b) The council may submit to the Department of Public Safety and the Texas Department of Criminal Justice an annual request for a data file containing data elements from the departments' systems. The Department of Public Safety and the Texas Department of Criminal Justice shall provide the council with that data file for the period requested. If the council submits data file requests other than the annual data file request, the director of the agency maintaining the requested records must approve the request.

(c) Neither a criminal justice agency nor the council may disclose to the public information in an individual's criminal history record if the record is protected by state or federal law or regulation.

Art. 60.04. COMPATIBILITY OF DATA. (a) Data supplied to the criminal justice information system [computerized criminal history and the centralized criminal history record information systems] must be compatible with the system [systems] and must contain both incident numbers and state identification numbers.

(b) A discrete submission of information under any article of this chapter must contain, in conjunction with information required, the defendant's name and state identification number.

Art. 60.05. TYPES OF INFORMATION COLLECTED. The criminal justice information system [(a) Together the computerized criminal history and the centralized criminal history record information systems] must contain but is [are] not limited to the following types of information for each arrest for a felony or a misdemeanor or not punishable by fine only:

- (1) information relating to offenders;
- (2) information relating to arrests;
- (3) information relating to prosecutions;
- (4) information relating to the disposition of cases by courts;
- (5) information relating to sentencing; and
- (6) information relating to the handling of offenders received by a correctional agency, facility, or other institution.

Art. 60.051. INFORMATION IN COMPUTERIZED CRIMINAL HISTORY SYSTEM. (a) [(b)] Information in the computerized criminal history system relating to an offender must include:

- (1) the offender's name, including other names by which the offender is known;
- (2) the offender's date of birth;
- (3) the offender's sex; and
- (4) the offender's state identification number.

(b) [(c)] Information in the computerized criminal history system relating to an arrest must include:

- (1) the name of the offender;
- (2) [and] the offender's state identification number[; if known];
- (3) [(2) the name of] the arresting agency;
- (4) [(3)] the arrest charge by offense [name, arrest charge] code[;]  
and incident number;

(5) whether the arrest charge is a misdemeanor or felony  
~~[(4) the level of the arrest charge or degree of offense charged];~~  
 (6) ~~[(5)]~~ the date of the arrest;  
 (7) ~~[(6)]~~ the exact disposition of the case by a law enforcement agency following the arrest; and  
 (8) ~~[(7)]~~ the date of disposition of the case by the law enforcement agency.

(c) ~~[(d)]~~ Information in the computerized criminal history system relating to a prosecution must include:

(1) each charged offense by offense [name, arrest charge] code[;] and incident number;

(2) the level of the offense charged or the degree of the offense charged for each offense in Subdivision (1) of this subsection; and

(3) for a rejected case, the date of rejection, offense code, and incident number, and whether the rejection is a result of a successful pretrial diversion program [if the case was disposed of by the prosecutor, the nature and date of the disposition and each charged offense disposed of, by name, arrest charge code, and incident number].

(d) ~~[(e)]~~ Information in the computerized criminal history system relating to the disposition of a case that was not rejected must include:

(1) the final pleading to each charged offense and the level of the offense;

(2) a listing of each charged offense [offenses] disposed of by the court and:

(A) the date of disposition; [and]

(B) the offense code for the disposed charge [a listing of each offense and the arrest charge code, name,] and incident number; and

(C) the type of disposition; and

(3) for a conviction that is appealed the final court decision and the final disposition of the offender on appeal [a listing of offenses for which the defendant was convicted by the arrest charge code, name, and incident number; and  
 [(4) the date of conviction].

(e) ~~[(f)]~~ Information in the computerized criminal history system relating to sentencing must include for each sentence:

(1) the sentencing date;

(2) the sentence for each offense by offense [name, arrest charge] code[;] and incident number;

(3) if the offender [defendant] was sentenced to confinement [imprisonment]:

(A) the agency that receives custody of the offender [place of imprisonment];

(B) the length of sentence for each offense; and

(C) if multiple sentences were ordered, whether they were ordered to be served consecutively or concurrently;

(4) if the offender [defendant] was sentenced to a fine, the amount of the fine;

(5) if a sentence to confinement or fine was ordered but was deferred, probated, suspended, or otherwise not imposed:

(A) the length of sentence or the amount of the fine that was deferred, probated, suspended, or otherwise not imposed; and

(B) the offender's name, offense code, and incident number; and

(6) if a sentence other than fine or confinement [imprisonment] was ordered, a description of the sentence ordered[;]



~~[(6) if court costs were ordered and if so the amount of the costs; and  
 [(7) if fees, costs, and similar monetary penalties other than those  
 described by Subdivisions (4) and (6) of this subsection were ordered, the amount  
 for each].~~

Art. 60.052. INFORMATION IN CORRECTIONS TRACKING SYSTEM. (a) Information in the corrections tracking system relating to a sentence to be served under the jurisdiction of the Texas Department of Criminal Justice must include:

- (1) the offender's name;
- (2) the offender's state identification number;
- (3) the sentencing date;
- (4) the sentence for each offense by offense code and incident number;
- (5) if the offender was sentenced to imprisonment:
  - (A) the unit of imprisonment;
  - (B) the length of sentence for each offense; and
  - (C) if multiple sentences were ordered, whether they  
were ordered to be served consecutively or concurrently; and
- (6) if a sentence other than a fine or imprisonment was ordered, a description of the sentence ordered.

(b) [(g)] Sentencing information in the corrections tracking system must also include the following information about each deferred adjudication, probation, or other alternative to imprisonment [confinement] ordered:

(1) each conviction for which sentence was ordered but was deferred, probated, suspended, or otherwise not imposed, by offense [name, arrest charge] code[,] and incident number; and

(2) [whether a portion of a fine or other cost was probated or otherwise not imposed and if so:

[(A) for each offense, the amount of the fine that was not imposed; and

[(B) for each offense, the amount of the court costs or other costs or fees that was not imposed; and

[(3)] if a sentence or portion of a sentence of imprisonment was deferred, probated, suspended, or otherwise not imposed:

(A) the offense, the sentence, and the amount of the sentence deferred, probated, suspended, or otherwise not imposed; [and]

(B) a statement of whether a return to confinement or other imprisonment was a condition of probation or an alternative sentence;

(C) the community supervision and corrections department exercising jurisdiction over the offender;

(D) the date the offender was received by a community supervision and corrections department;

(E) any program in which an offender is placed or has previously been placed and the level of supervision the offender is placed on while under the jurisdiction of a community supervision and corrections department;

(F) the date a program described by Paragraph (E) of this subdivision begins, the date the program ends, and whether the program was completed successfully;

(G) the date a level of supervision described by Paragraph (E) of this subdivision begins and the date the level of supervision ends;

(H) if the offender's probation is revoked:

(i) the reason for the revocation and the date of revocation by offense code and incident number; and

(ii) other current sentences of probation or other alternatives to confinement that have not been revoked, by offense code and incident number; and

(I) the date of the offender's release from the community supervision and corrections department.

(c) ~~(th)~~ Information in the corrections tracking system relating to the handling of offenders must include the following information about each imprisonment ~~[institutionalization]~~, confinement, or execution of an offender:

(1) the date of the imprisonment ~~[institutionalization]~~ or confinement;

(2) if the offender ~~[defendant]~~ was sentenced to death:

(A) ~~[the scheduled date of execution;~~

~~](B) if the defendant was executed;]~~ the date of execution; and

(B) ~~[(C)]~~ if the death sentence was commuted, the sentence to which the sentence of death was commuted and the date of commutation;

(3) the date the offender ~~[defendant]~~ was released from imprisonment ~~[institutionalization]~~ or confinement and whether the release was a discharge or a release on parole or mandatory supervision; ~~[and]~~

(4) if the offender is released on parole or mandatory supervision:

(A) the offense for which the offender was convicted by offense ~~[name, arrest charge]~~ code~~;~~ and incident number;

(B) the date the offender was received by an office of the Board of Pardons and Paroles division;

(C) the county in which the offender resides while under supervision;

(D) any program in which an offender is placed or has previously been placed and the level of supervision the offender is placed on while under the jurisdiction of the Board of Pardons and Paroles division;

(E) the date a program described by Paragraph (D) of this subdivision begins, the date the program ends, and whether the program was completed successfully;

(F) the date a level of supervision described by Paragraph (D) of this subdivision begins and the date the level of supervision ends;

(G) if the offender's release status is revoked, the reason for the revocation and the date of revocation;

(H) the ~~[latest possible]~~ expiration date of the sentence; and

(I) the date of the offender's release from the Board of Pardons and Paroles division or the date on which the offender is granted clemency; and

(5) if the offender is released under Section 6(a), Article 42.12, of this code, the date of the offender's release.

~~[(C) the earliest possible expiration date of the sentence.~~

~~[(i) Data elements not needed for the functioning of the computerized criminal history system shall be maintained in the centralized criminal history record information system.]~~

Art. 60.06. DUTIES OF AGENCIES. (a) Each criminal justice agency shall:

(1) compile and maintain records needed for reporting data required by the Texas Department of Criminal Justice and the Department of Public Safety;

(2) transmit to the Texas Department of Criminal Justice and the Department of Public Safety, when and in the manner the Texas Department of Criminal Justice and the Department of Public Safety direct, all data required by the Texas Department of Criminal Justice and the Department of Public Safety, other than reports concerning the identity of a juvenile offender or the offender's parents;

(3) give the Department of Public Safety and the Texas Department of Criminal Justice or their [its] accredited agents [agent] access to the agency for the purpose of inspection to determine the completeness and accuracy of data reported; and

(4) cooperate with the Department of Public Safety and the Texas Department of Criminal Justice so that the Department of Public Safety and the Texas Department of Criminal Justice may properly perform their duties under this chapter.

(b) Information on an individual that consists of an identifiable description and notation of an arrest, detention, indictment, information, or other formal criminal charge and a disposition of the charge, including sentencing, correctional supervision, and release that is collected and compiled by the Department of Public Safety and the Texas Department of Criminal Justice from criminal justice agencies and maintained in a central location is not subject to public disclosure except as authorized by federal or state law or regulation.

(c) Subsection (b) of this section does not apply to a document maintained by a criminal justice agency that is the source of information collected by the Department of Public Safety or the Texas Department of Criminal Justice. Each criminal justice agency shall retain documents described by this subsection.

(d) An optical disk or other technology may be used instead of microfilm as a medium to store information if allowed by the applicable state laws or regulations relating to the archiving of state agency information.

(e) An official of an agency may not intentionally conceal or destroy any record with intent to violate this section.

(f) [e] The duties imposed on a criminal justice agency under this article are also imposed on district court and county court clerks.

Art. 60.07. UNIFORM INCIDENT FINGERPRINT CARD. (a) The Department of Public Safety, in consultation with the council, shall design, print, and distribute to each law enforcement agency in the state a uniform incident fingerprint card.

(b) The incident card must:

(1) be serially numbered with an incident number in such a manner that the individual incident of arrest may be readily ascertained; and

(2) be a multiple part form that can be transmitted with the offender through the criminal justice process and that allows each agency to report required data to the Department of Public Safety or the Texas Department of Criminal Justice [department or the council].

Art. 60.08. REPORTING. (a) The Department of Public Safety and the Texas Department of Criminal Justice shall, by rule, develop reporting procedures that ensure that the offender processing data is reported from the time an offender is arrested [a defendant is convicted] until the time an offender [a defendant] is released.

(b) The arresting agency shall prepare a uniform incident fingerprint card and initiate the reporting process [when an individual is arrested] for each offender charged with a felony or a misdemeanor not punishable by fine only.

(c) The clerk of the court exercising jurisdiction over a case shall report the disposition of the case to the Department of Public Safety [council].

(d) Except as otherwise required by applicable state laws or regulations, information [information] or data required by this chapter to be reported to the Texas Department of Criminal Justice or the Department of Public Safety shall be reported promptly but not later than the 30th day after the date on which the information or data is received by the agency [individual] responsible for reporting it except in the case of an arrest. An offender's arrest shall be reported to the [Texas Department of Criminal Justice or the] Department of Public Safety not later than the seventh day after the date of the arrest.

(e) A court that orders the release of an offender under Section 6(a), Article 42.12, of this code at a time when the offender is under a bench warrant and not physically imprisoned in the institutional division shall report the release to the institutional division of the Texas Department of Criminal Justice not later than the seventh day after the date of the release.

Art. 60.09. LOCAL DATA ADVISORY BOARDS. (a) The commissioners court of each county may create local data advisory boards to, among other duties:

(1) analyze the structure of local automated and manual data systems to identify redundant data entry and data storage;

(2) develop recommendations for the commissioners to improve the local data systems;

(3) develop recommendations, when appropriate, for the effective electronic transfer of required data from local agencies to state agencies; and

(4) perform any related duties to be determined by the commissioners court.

(b) Local officials responsible for collecting, storing, reporting, and using data may be appointed to the local data advisory board.

(c) The council and the Department of Public Safety shall, to the extent that resources allow, provide technical assistance and advice on the request of the local data advisory board.

SECTION 29. Section 1, Chapter 39, Acts of the 49th Legislature, Regular Session, 1945 (Article 6663a, Vernon's Texas Civil Statutes), is amended to read as follows:

Sec. 1. (a) The State Department of Highways and Public Transportation is hereby authorized to photograph, microphotograph, or film all records of any kind or character pertaining to departmental operations; and the Texas Department of Public Safety is hereby authorized to photograph, microphotograph, or film all records in connection with the issuance of operators' licenses, chauffeurs' licenses, and commercial operators' licenses and all records of the various divisions of the Texas Department of Public Safety, with the exception that no original fingerprint card or any evidence submitted in connection with a criminal case or any confession or statement made by the defendant in a criminal case shall be photographed or filmed for the purpose of disposing of the original records, except as provided by Subsection (b) of this section, and that whenever the State Department of Highways and Public Transportation or the Texas Department of Public Safety shall have photographed, microphotographed or filmed such records and whenever such photographs or microphotographs or films shall be placed in conveniently accessible files and provisions made for preserving, examining and using the same, the State Department of Highways and Public Transportation or the Texas Department of Public Safety may cause the original records from which the photographs, microphotographs or films have been made to be disposed of or destroyed; provided, however, that all deeds conveying land or interests in land to the State of Texas for highway purposes shall be retained and deposited in the offices of the State Department of Highways and Public Transportation at Austin, Texas. This authorization includes the creation of original records in micrographic form on media such as computer output microfilm.

(b) The Texas Department of Public Safety may destroy or dispose of a defendant's original fingerprint card if:

(1) the department has another original fingerprint card for the defendant on file and retains that card; or

(2) the defendant is now 80 years of age or older and the department retains a copy of the card on file.

The amendments were read.

Senator McFarland moved that the Senate do not concur in the House amendments, but that a Conference Committee be appointed to adjust the differences between the two Houses on the bill.

The motion prevailed.

The Presiding Officer asked if there were any motions to instruct the Conference Committee on S.B. 41 before appointment.

On motion of Senator Armbrister and by unanimous consent, the Conferees were instructed to strike the Stiles amendment.

The Presiding Officer announced the appointment of the following conferees on the part of the Senate on the bill: Senators McFarland, Chairman; Brown, Dickson, Tejeda and Ratliff.

#### HOUSE JOINT RESOLUTION 1 ON SECOND READING

Senator McFarland moved that Senate Rules 5.09, 7.19 and 7.25 and the Constitutional Rule requiring bills to be read on three several days be suspended to place on its second reading and passage to third reading and on its third reading and final passage:

**H.J.R. 1**, Proposing a constitutional amendment relating to the compensation of the lieutenant governor and members of the legislature.

The motion prevailed by the following vote: Yeas 17, Nays 4.

Yeas: Armbrister, Barrientos, Brooks, Caperton, Dickson, Edwards, Ellis, Haley, Harris, Johnson, Krier, McFarland, Montford, Parker, Ratliff, Truan, Uribe.

Nays: Brown, Leedom, Tejeda, Zaffirini.

Absent: Henderson, Sims.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The resolution was read second time.

Senator Uribe offered the following amendment to the resolution:

Amend **H.J.R. 1** as follows:

(1) On page 1, line 2, add the following after the word "legislature.":

"and to the creation, powers, and duties of the State Ethics Enforcement Commission."

(2) On page 1, line 16, insert a new Section 2 and renumber the subsequent sections appropriately.

SECTION 2. Article III of the Texas Constitution is amended by adding Section 24a to read as follows:

Sec. 24a. (a) The State Ethics Enforcement Commission is created. The commission is composed of the following nine members:

(1) a former justice of the Texas Supreme Court appointed by the governor;

(2) four public members appointed by the lieutenant governor; and

(3) four public members appointed by the speaker of the house of representatives.

(b) In this section:

(1) "Public member" is a person who is not subject to regulation by the commission.

(2) "State officer" does not include a member of the commission.

(c) The commission is subject to the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(d) Commission members are appointed for staggered terms of four years, with the terms of four or five appointees, as appropriate, expiring January 1 of each odd-numbered year.

(e) The commission annually shall elect a presiding officer and assistant presiding officer from its members. Five or more members of the commission constitute a quorum.

(f) The commission shall meet at:

(1) least four times each year as provided by the rules of the commission;

(2) other times at the call of the presiding officer; and

(3) a time specified in a written request made to the presiding officer by at least three members.

(g) Commission members shall attend each meeting of the commission except in an emergency. If a member is absent from two or more consecutive meetings of the commission and each absence did not involve an emergency, the member may be removed from the commission by a majority vote of the other members. If a member is removed under this subsection, the authority that appointed the member shall appoint a successor to serve for the remainder of the member's unexpired term.

(h) The commission shall

(1) receive and investigate complaints relating to the ethical conduct of state officers, state employees, or persons required to register with the secretary of state in order to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action;

(2) subpoena and examine witnesses and documents as necessary to perform its duties;

(3) hold informal hearings on its own motion to determine if a violation has occurred under a law relating to the ethical conduct of state officers, state employees, or persons required to register with the secretary of state in order to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action;

(4) issue findings after those hearings concerning compliance with or violations of laws relating to the ethical conduct of state officers, state employees, or persons required to register with the secretary of state in order to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action;

(5) if the commission finds that a violation has occurred, impose a civil fine in an amount determined by the commission not to exceed \$1,000 and recommend to the appropriate prosecuting attorney that the violator be prosecuted in accordance with the appropriate law;

(6) audit the following reports made to the secretary of state:

(A) political funds reports;

(B) personal financial statements of state officers and employees; and

(C) reports of persons required to register with the secretary of state in order to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action;

(7) not later than July 1, 1991, adopt rules, consistent with statutory requirements, relating to:

(A) political funds disclosure of candidates for elected office and state officers;

(B) regulation of persons required to register with the secretary of state in order to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action;

(C) ethical standards for state officers, state employees, candidates for state office, and persons required to register with the secretary of state in order to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action;

(D) the enforcement of this section; and

(E) the administration of the commission;

(8) issue, and publish on issuance, opinions concerning the application of state ethics laws to specific factual circumstances;

(9) publish biannually a compilation of opinions issued by the commission during the preceding six months;

(10) advise and train state officers, state employees, and candidates for state office concerning state laws relating to political funds and the ethical conduct of state officers and employees;

(11) make recommendations to the legislature during each regular session concerning advisable amendments or revisions of the laws relating to ethics, activities of persons required to register with the secretary of state in order to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action, or political funds disclosure; and

(12) adopt rules, consistent with statutory requirements, that establish:

(A) a code of conduct for state agency employees;

(B) limitations on the amount, number, or kind of fees, honoraria, gifts, meals, and trips that a member of the legislature may receive; and

(C) reporting requirements for persons required to register with the secretary of state in order to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action.

(i) If the commission receives from a person subject to commission regulation a written request for a commission opinion concerning the application of state ethics laws to specific factual circumstances, whether existing or hypothetical, the commission shall prepare a written opinion concerning the request not later than the 30th day after the date the commission receives the request.

(j) The commission shall give the advice and training required by Subsection (h)(10) of this section to:

(1) state officers and employees not later than the 45th day before the date on which the legislature convenes in each regular legislative session; and

(2) candidates for state office not later than February 1 of each year.

(k) The commission shall employ, as general counsel to the commission, a person licensed to practice law in this state, and may employ other staff necessary to fulfill its duties under this section.

(l) Not later than the 20th day of every other regular legislative session, the commission may propose to the legislature a change in the amount of the salary of members of the legislature. If the legislature adopts the proposed change, the legislature shall provide for the submission of the proposed change to the voters at the next gubernatorial election.

(m) If, not later than June 1, 1991, the commission determines that the legislature has not adopted appropriate limits on the amount of items of value or political contributions acceptable by a member of the legislature from an individual or a political committee or a limit on the amount of personal funds that may be used in a campaign for elected office, the commission by rule shall establish appropriate limits.

(n) The 72nd Legislature shall, not later than January 31, 1991, appropriate to the commission, for the period beginning February 1, 1991, and ending August 31, 1991, from the unclaimed money fund established under Section 74.601, Property Code, or from funds received by the secretary of state for the registration of persons to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action, sufficient funds for the operation of the commission during that period. This subsection expires September 1, 1991.

(o) The 72nd Legislature shall, during its regular legislative session, appropriate to the commission, for the fiscal biennium of the state beginning September 1, 1991, from the unclaimed money fund established under Section 74.601, Property Code, or from funds received by the secretary of state for the registration of persons to communicate directly with a member of the legislative or executive branch to influence legislation or administrative action, sufficient funds for the operation of the commission during that biennium. This subsection expires September 2, 1991.

(p) This subsection expires January 2, 1995. Notwithstanding Subsection (d) of this section, not later than February 1, 1991, the governor, lieutenant governor, and speaker of the house of representatives shall make initial appointments to the commission to serve for terms designated by the appointing officer as follows:

(1) two members appointed by the lieutenant governor and two members appointed by the speaker of the house of representatives shall serve until January 1, 1993; and

(2) the member appointed by the governor, two members appointed by the lieutenant governor, and two members appointed by the speaker of the house of representatives shall serve until January 1, 1995.

(q) The commission shall meet at least once not later than March 1, 1991. This subsection expires April 1, 1991.

The amendment was read.

#### POINT OF ORDER

Senator McFarland raised the point of order that the amendment was not germane to the resolution.

The Presiding Officer sustained the point of order.

Question - Shall the resolution be passed to third reading?

#### HOUSE BILL 36 ON SECOND READING

Senator McFarland moved that Senate Rules 5.09, 7.19 and 7.25 and the Constitutional Rule requiring bills to be read on three several days be suspended to place on its second reading and passage to third reading and on its third reading and final passage:

**H.B. 36**, Relating to authorizing a religious organization to file a late application for an exemption from ad valorem taxation.

The motion prevailed by the following vote: Yeas 22, Nays 0.

Absent: Henderson.

Absent-excused: Bivins, Carriker, Glasgow, Green, Lyon, Parmer, Santiesteban, Whitmire.

The bill was read second time and was passed to third reading viva voce vote.



**HOUSE BILL 36 ON THIRD READING**

The Constitutional Rule requiring bills to be read on three several days having been suspended, the Presiding Officer laid H.B. 36 before the Senate on its third reading and final passage.

The bill was read third time and was passed viva voce vote.

**(President Pro Tempore McFarland in Chair)**

**SENATE RULE 11.11 SUSPENDED**

On motion of Senator Montford and by unanimous consent, Senate Rule 11.11 was suspended in order that the Committee on State Affairs might consider H.B. 7 upon adjournment today.

**MOTION TO ADJOURN**

On motion of Senator Brooks, the Senate at 6:41 p.m. adjourned, subject to the receipt of a message from the House, until 11:00 a.m. tomorrow.

**MESSAGE FROM THE HOUSE**

House Chamber  
June 6, 1990

HONORABLE W. P. HOBBY  
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has granted the request of the Senate for the appointment of a Conference Committee on S.B. 41. The following have been appointed on the part of the House: Hightower, Chair; Stiles, Telford, Russell, Jones.

Respectfully,

BETTY MURRAY, Chief Clerk  
House of Representatives

**MEMORIAL RESOLUTIONS**

S.R. 8 - By Glasgow: In memory of John Marsh Farmer, Sr., of Fort Worth.

S.R. 9 - By Glasgow: In memory of T. F. "Tom" Bains of Granbury.

S.R. 10 - By Glasgow: In memory of Wiley E. Gratts of Mineral Wells.

S.R. 12 - By Glasgow: In memory of K. Ewell Jones of Stephenville.

S.R. 13 - By Glasgow: In memory of W. N. "Boone" Brown of Stephenville.

S.R. 20 - By Glasgow: In memory of Dr. J. D. Tomme of Fort Worth.

S.R. 21 - By Glasgow: In memory of Mona V. Kuykendall Harding of Denton.

S.R. 22 - By Glasgow: In memory of Dr. Charles B. Wright of Hamilton.

S.R. 23 - By Glasgow: In memory of Rice M. Tilley, Sr., of Fort Worth.

S.R. 24 - By Glasgow: In memory of John Worth Cloud.

S.R. 25 - By Glasgow: In memory of Dr. Robert L. Marquis.

S.R. 26 - By Glasgow: In memory of Terry Ray Frazier.

S.R. 27 - By Glasgow: In memory of James E. Boren of Clifton.

- S.R. 28 - By Glasgow: In memory of Dr. Victor Vance Davie of Clifton.  
S.R. 29 - By Glasgow: In memory of Dr. E. M. Russell of Weatherford.  
S.R. 31 - By Glasgow: In memory of Wilma Philpott of Fort Worth.  
S.R. 32 - By Glasgow: In memory of Emmett H. Sheffield of Lewisville.  
S.R. 33 - By Glasgow: In memory of Richard "Dick" Harris, Sr., of Denton.  
S.R. 34 - By Glasgow: In memory of Richard B. Gary.  
S.R. 35 - By Glasgow: In memory of Wiebe De Vries of Erath County.  
S.R. 36 - By Henderson: In memory of James Quayle Burke.  
S.R. 37 - By McFarland: In memory of Terrence James Collins of Houston.  
S.R. 38 - By Parmer: In memory of Gaston Hallam.  
S.R. 39 - By Parmer: In memory of C. Dickie Williamson of Fort Worth.

#### CONGRATULATORY RESOLUTIONS

H.C.R. 20 - (Glasgow): Extending congratulations to Bill and Jewel Roberts on their golden wedding anniversary.

H.C.R. 21 - (Armbrister): Declaring Danevang the Danish Capital of Texas.

H.C.R. 24 - (Zaffirini): Commemorating the 70th anniversary of the ratification of the 19th Amendment to the United States Constitution granting women the right to vote.

H.C.R. 26 - (Krier): Recognizing the Texas Human Investment System.

S.R. 7 - By Haley: Commending Mr. C. L. Simon for his meritorious service to Texas, to Nacogdoches, and to the many schoolchildren whose lives he has influenced.

S.R. 11 - By Glasgow: Commending Eric Wayne Ribble on his graduation from Peaster High School.

S.R. 14 - By Johnson: Extending congratulations to Hortense Sanger on receiving the Agency Board Member Volunteer of the Year Award from the Visiting Nurse Association of Texas.

S.R. 15 - By Johnson: Commending Danna Wharton for her fine work with the Home Hospice Program and congratulating her on receiving the Individual Care Provider Volunteer of the Year Award.

S.R. 16 - By Brooks: Extending congratulations to Mr. and Mrs. Irvin Champagne on their 50th wedding anniversary.

S.R. 17 - By Lyon: Commending Alvin V. Anderson for his superb efforts on behalf of the schoolchildren of Texas.

S.R. 18 - By Tejeda: Commending Joe Scott for his magnificent contributions to his community and his state.

S.R. 19 - By Montford: Commending Brodie Hutchinson for his meritorious service to the youth of Texas.

S.R. 40 - By Parmer: Commending C. L. "Charlie" Schmucker for his meritorious service to the State of Texas.

**ADJOURNMENT**

The President Pro Tempore at 7:01 p.m. announced that the Senate would, in accordance to a previously adopted motion, stand adjourned until 11:00 a.m. tomorrow.

**THIRD DAY**

(Thursday, June 7, 1990)

The Senate met at 11:00 a.m. pursuant to adjournment and was called to order by President Pro Tempore McFarland.

The roll was called and the following Senators were present: Armbrister, Barrientos, Brooks, Caperton, Carriker, Dickson, Edwards, Ellis, Glasgow, Green, Haley, Harris, Henderson, Johnson, Krier, McFarland, Montford, Parker, Ratliff, Tejeda, Uribe, Whitmire, Zaffirini.

Absent-excused: Bivins, Brown, Leedom, Lyon, Parmer, Santiesteban, Sims, Truan.

A quorum was announced present.

Senate Doorkeeper Jim Morris offered the invocation as follows:

Heavenly Father, this morning we offer a prayer of gratitude for all those who have made a contribution as these members and their staffs worked through the tough issues that required these special sessions. As this sixth special session concludes its business, we pray for the members as they return to their homes and families. For those who will not return, we say a special word of thanks for the investment they have made here and wish for them Godspeed and sustaining grace for whatever lies before them.

This is our prayer today in the name of our Lord. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

**LEAVES OF ABSENCE**

Senators Bivins, Brown, Leedom, Lyon, Parmer, Santiesteban, Sims and Truan were granted leave of absence for today on account of important business on motion of Senator Brooks.

**REPORT OF STANDING COMMITTEE**

Senator Montford submitted the following report for the Committee on State Affairs:

**H.B. 7 (Amended)****CAPITOL PHYSICIAN**

Senator Caperton was recognized and presented Dr. H. David Pope, Jr., of Bryan.

Dr. Pope, participating in the "Capitol Physician" program sponsored by the Texas Academy of Family Physicians, was welcomed by the Senate and received an expression of gratitude for his service today.